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JUN 15 1991

Dear Applicant:

We have completed our consideration of your application for tax exemption under section 501(c)(4) of the Internal Revenue Code.

You are a homeowner's or propertyowner's association and your members are the propertyowners of the [REDACTED]. Your sources of financial support are or will be dues, assessments, clubhouse receipts, and rental receipts.

Section 501(c)(4) of the Code provides for exemption from Federal Income tax for an organization that is not organized for profit and is operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Federal Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

Rev. Rul. 74-99, 1974-1 C.B. 131, generally holds that a homeowner's association, to qualify for exemption under section 501(c)(4) of the Code (1) must serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

General public in this context means the general populace, as opposed to merely members of a particular housing or residential development. Revenue ruling 74-99 also states that for a homeowner's association to qualify for exemption under 501(c)(4), it cannot restrict access to its recreational areas and facilities. They must be available for use by the general public.

INITIATOR	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER

[REDACTED]

Information you furnished shows that access to your common areas and recreational facilities will be restricted to members and their guests. Security service will also be provided and the guard will prevent access by the general public to the development. You will conduct activities directed to the exterior maintenance of residences, if necessary. In addition, it appears your activities primarily serve a subdivision which does not bear a reasonably recognizable relationship to an area ordinarily identified as governmental, such as a precinct, country, or township. Based on the foregoing information, you do not meet the requirements of Revenue Ruling 74-99, and it is concluded that your organization primarily serves the private interest of your members rather than the general public. Accordingly, tax exemption under section 501(c)(4) is denied.

The Tax Reform Act of 1976 created new Internal Revenue Code Section 528 which permits certain homeowner's associations to be taxed only on their non-exempt function income. It is likely that your organization will qualify for treatment under Internal Revenue Code 528. Enclosed are publication 588 and form 1120-H for your review. Please refer to page 8 of the publication. The election to be treated under section 528 is made by timely filing form 1120-H and there are no application forms to be filed.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible. You should file Form 1120 or 1120-H, when due.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file a written protest in accordance with the instructions set forth in the enclosed Publication 892. If you do not file a protest within 30 days, this proposed determination will become final.

Sincerely,

[REDACTED]
District Director

Enclosures:
Form 6018
Publication 892
Envelope
Form 1120-H
Publication 588